



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter Of: Home Health Care Services--Reconsideration

File No.: B-258646.2

Date: December 20, 1994

DECISION

Home Health Care Services requests reconsideration of our dismissal of its protest of the rejection of its bid under invitation for bids No. 509-1-95 by the Department of Veterans Affairs (VA). We dismissed the protest as untimely filed more than 10 days after the protester knew, or should have known, of the basis for its protest.

We affirm the dismissal.

In its original protest letter, which we received on September 28, 1994, Home Health Care stated that the "basis for [this] protest is the failure to award to [Home Health Care], the low bidder. The VA letter . . . received September 2, 1994 states . . . [that Home Health Care's] bid was 'rejected because it is mathematically and materially unbalanced.'" We dismissed the protest because September 28 is more than 10 days after September 2.

On reconsideration, Home Health Care asserts that its protest was filed within 10 days of September 23, the date in which it received a formal denial of its agency-level protest. Home Health Care asserts that we therefore erred in dismissing its protest as untimely. Nowhere in the protest letter to us, however, did Home Health Care indicate that it had filed an agency-level protest.

Our Bid Protest Regulations provides that protests which are untimely on their face may be dismissed and that it is the protester's obligation to include all the information needed to demonstrate the protest's timeliness. Protesters are not permitted to introduce for the first time, in a piecemeal fashion, on reconsideration

the information upon which the timeliness of the protest relies, 4 C.F.R. § 21.2(b) (1994); United Terex, Inc.-Recon., B-243989.2, June 24, 1991, 91-1 CPD ¶ 599; Global Crane Institute-Recon., B-218120.2, May 28, 1985, 85-1 CPD ¶ 606. A lack of knowledge regarding our Bid Protest Regulations and filing requirements is not a defense to our timeliness rules since they are published in the Federal Register and the Code of Federal Regulations and protesters¹ by law are charged with constructive notice of their contents. See Domation, Inc., B-228221, Sept. 28, 1987, 87-2 CPD ¶ 311.

The dismissal is affirmed.



Ronald Berger
Associate General Counsel

¹Home Health Care asserts that it is not a protester, but an "appellant" appealing the VA's denial of its agency-level protest. Despite language in VA's letter to Home Health Care stating that an appeal could be filed with us, we do not hear appeals. Under the law, we consider only protests, regardless of whether they have been first filed with the procuring activity and regardless of whether any protest filed at the agency level has been decided. Thus, Home Health Care's letter to us received on September 28 was treated as a protest, subject to the rules governing protests filed with the General Accounting Office.